

# ‘NEVER THE ATTORNEY’: RACE, GENDER, AND MISATTRIBUTION IN THE LEGAL PROFESSION

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## WOMEN ATTORNEYS, ESPECIALLY WOMEN OF COLOR, ARE OFTEN MISTAKEN FOR NONLAWYER STAFF – A ROUTINE MISIDENTIFICATION THAT SIGNALS WHO IS SEEN AS BELONGING IN THE PROFESSION.

*“I don’t know if they just see a female and just assume that you’re not a lawyer, but it happens everywhere. That if it’s not the court reporter, it’s a probation officer or a case manager. You’re just never the attorney.”<sup>1</sup>*

*“I have to be a bulldog to get the respect that I believe others have by simply being licensed attorneys. Meanwhile the assumption is also that I am support staff, which could be related to my race or my gender.”<sup>2</sup>*

In the legal profession, women must contend with gendered and/or racialized stereotypes about what a “real” lawyer looks like. Too often, women attorneys who have survived the gauntlet of law school and passing the bar must also contend with the indignity of colleagues, clients, and other professional contacts routinely misidentifying them as lower-level employees. The literature on career stereotyping powerfully demonstrates that gender and racial associations with particular careers, like science<sup>3</sup> and politics,<sup>4</sup> shape perceptions of what someone in those fields should look like — and communicate both subtly and overtly who belongs. Despite decades of increasing gender and racial

diversity in law school classes, the field of law continues to be dominated by white men at top levels like law firm partners, general counsel of Fortune 500 companies, tenured law faculty, and judges.<sup>5</sup>

Gender stereotypes about women and legal practice also disadvantage women.<sup>6</sup> A plethora of studies documents the overt ways that women lawyers experience discrimination in the workplace related to pay, firm prestige, and advancement,<sup>7</sup> as well as sexual harassment and bullying.<sup>8</sup> These negative experiences are especially pronounced among women of color.<sup>9</sup> When surveyed, women of color lawyers also report more mistreatment by fellow attorneys<sup>10</sup> as well as by judges and court staff.<sup>11</sup>

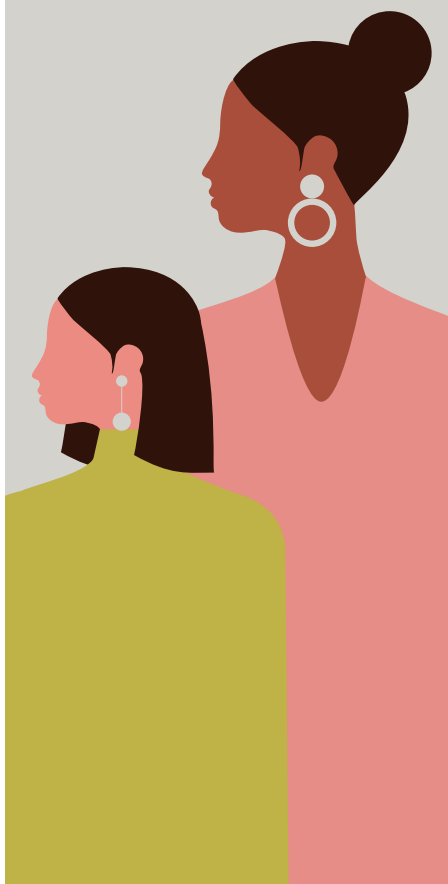
Yet less is known about how women lawyers experience and cope with less extreme but more pervasive experiences of bias and exclusion. Although the effects are understudied, the “mis-taken identity” phenomenon has been documented in a series of reports commissioned by the American Bar Association.<sup>12</sup> For instance, a 2018 report revealed that more than half of lawyers who are women of color said they’d been mistaken for custodial, administrative, or courtroom staff, compared to only 7% of white men.<sup>13</sup> Another survey of about 1,300 attor-

neys with at least 15 years of practice experience found that 82% of women respondents reported being mistaken for nonlawyer employees, while no male respondents reported having this experience.<sup>14</sup>

In spite of the pervasiveness of this problem, we know relatively little about how women respond to these degrading experiences. Although we expect that the experience of misidentification will generalize beyond the legal profession to any gender/race-stereotyped profession (e.g., politics, academia, engineering), the legal profession provides an especially valuable context for exploration. Lawyers are the gatekeepers to the courts<sup>15</sup> and allow individuals to gain rights through litigation.<sup>16</sup>

Here, we explore how women attorneys respond to these frequent — but less studied — signals of exclusion. Drawing on focus groups with early- and mid-career women attorneys, we use an intersectional lens to evaluate how experiences and coping strategies vary across groups of women. Participants’ comments reveal the pervasiveness of misidentification across women of diverse backgrounds and practice areas and highlight how discrimination and coping strategies can vary with the intersection of gender, race, and other attributes. While ►

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the existing research on gender and racial disparities is unquestionably important, we argue that it is equally important to understand how women attorneys experience their gender and race on a day-to-day basis in the profession. As such, we next turn to the linkage between misidentification and feelings of belonging in the profession.

### **MISIDENTIFICATION, FEELINGS OF BELONGING, AND AMBITION**

Although lawyers generally report high career satisfaction<sup>17</sup> with few race or gender differences,<sup>18</sup> researchers note that these findings may reflect selection bias in survey respondents because dissatisfied women and people of color are more likely to leave the profession.<sup>19</sup> Women lawyers are more likely to internalize professional grievances as depression,<sup>20</sup> and women of color report feeling emotionally drained by the need to constantly prove themselves.<sup>21</sup> Existing scholarship also examines how racial microaggressions<sup>22</sup> negatively affect the physical and psychological well-being of minoritized persons and diminish job satisfaction.<sup>23</sup> One study found that misidentification is the most commonly experienced microaggression by attorneys of color, noting, “The psychological toll of constantly needing to assert your professional identity is unmistakable.”<sup>24</sup>

So how do misidentification experiences affect professional ambition and satisfaction? Existing research strongly suggests that using an intersectional lens can help reveal the impact of interlocking dimensions of discrimination beyond the single axis of gender.<sup>25</sup> Stereotypes about occupations are often gendered and racialized, which will impact

the kinds of interactions and comments made toward different groups of attorneys.<sup>26</sup> Women lawyers who must constantly face misidentification might internalize those messages in a way that discourages their desire to seek elevated roles in the professions that are equally, if not more, gender- and/or race-typecast. Furthermore, because women of color’s intersectional identities place them in positions of greater vulnerability to both race and gender microaggressions, they may experience even more pronounced career ambition and satisfaction effects.

### **STUDY DESIGN**

To investigate the prevalence and impact of these experiences, we utilized virtual focus groups of practicing women attorneys.<sup>27</sup> We recruited early- and mid-career practicing attorneys across the United States to participate in a screening survey, which was then used to assess eligibility and availability for participation in virtual focus groups.<sup>28</sup>

Following best practices for addressing issues related to race and gender,<sup>29</sup> eligible participants were sorted into three small focus groups of women, each mutually exclusive in their membership. The focus groups — *Group A* (Black women), *Group B* (white women), and *Group C* (women of color from different racial backgrounds, including two Black women, one Arab American woman, and one Asian American woman) — each met for one session. Participants were allowed to use pseudonyms as their screen names but were asked to keep their cameras on to ensure responses were coming only from the screened participants. At the conclusion of each focus group, the recordings were transcribed, stripped of identifying

information, and coded to identify prominent themes.

The 13 focus group participants included early- and mid-career women lawyers across an array of demographic backgrounds, family arrangements, and practice areas. The lawyers self-identified as white (5), Black (6), Arab American (1), and Asian American (1), and all identified as cisgender. They received their JD degrees between 2003 and 2020 and ranged in age from 29 to 54. Two lawyers reported being married, one identified as being in a long-term relationship, while the others identified as single. Three reported having children. All but one participant had held more than one legal position, and three had worked in five or more roles. The focus group members represented a wide range of legal settings: one in solo practice, one in a small firm, two in government, three as nonprofit in-house counsel, one as business/corporate in-house counsel, one at a large firm with between 20 and 49 attorneys, and two at large firms with 50 or more attorneys.

### THEMES FROM FOCUS GROUP DISCUSSIONS

Following the groups' discussions, we coded the transcripts to identify commonalities and differences in the attorneys' experiences. The most frequent themes included experiences of misidentification and other microaggressions, the impacts of these experiences on career ambition and satisfaction, and the coping strategies the women employed. We also observed important differences between white women's experiences and those of women with intersectional identities.

### Microaggressions and Intersectionality

The ways in which some women described being disrespected sometimes tracked along intersectional identities. One Black woman noted that she had clients who asked for others to verify that her legal advice was correct.

**Lawyer 3:** I've had clients that I know that I would not have had that type of interaction [with] if I were a white male or if I were a white woman.

Another Black woman talked about how her appearance and identity seemed to conflict with many people's expectations about what an attorney should look like.

**Lawyer 10:** Something I don't like is the stereotype of what a lawyer looks like. Lawyers are typically thought of as old white men. I am a dark-skinned Black woman with locks [and I'm] heavier set. I don't look like what most people expect an attorney to look like, and people are often very surprised and sometimes rude and sometimes mean when that comes to light that I'm an attorney. There's always questioning of my abilities, my credentials, that sort of thing.

Another Black woman observed that she felt treated differently from her Black male colleagues.

**Lawyer 9:** I have noticed that there's a difference in my experience as a Black attorney versus my [Black] friend who's a male. . . . They look at him like he's a unicorn. Like, "Wow, let me listen to what he has to say." For me, some-

times it's, "Are you sure? You want to ask your supervisor?" I do see and notice a difference between my experience as a Black female attorney and some of my friends who are Black males.

A white woman who worked in child welfare noted that the intersection of gender and age might be the explanation for remarks from opposing counsel:

**Lawyer 2:** [Co]mments of attorneys telling me things like, . . . "I don't know if you have kids," but then going on [to] explain why they are correct. I find that very interesting. . . . I don't know if it's the age or being a woman, but I think it's probably a little [of] both.

A practicing Muslim woman of Middle Eastern descent described how judges and opposing counsel sometimes were resistant to her requests to reschedule trial dates around Ramadan, when she would be fasting.

**Lawyer 11:** I've had judges ask me on the record why I can't hold trial during that month. . . . [E]ven supervisors would say very ignorant things. One of them said, "This seems like it's very backwards and old school. I don't understand why you can't change it." . . . I don't even know what to say at that point, but this was a person [who] was . . . in the steps of becoming a supervisor. I couldn't really say anything to . . . stand up for myself or what I believe in, but I just laughed it off.

An Asian American woman described her federal clerkship experience alongside a white male law clerk who was later fired for making overtly racist comments. ►

**Lawyer 6:** I do remember [that the law clerk's] interactions with me were very different. He was very dismissive. He was very, "eye roll" is the best way I'm going to describe it with my comments even if it was exactly the same as the feedback that he was getting from my co-clerk at the time. We were working on very similar matters for different cases.

Black women also had stories about reactions to their hair. Two Black women mentioned that during law school, a white classmate had asked to touch their hair, while a third was told by a judge that she was "brave" for wearing her hair in a natural style. Another Black woman who was a clerk in a federal courthouse recalled that she had repeated interactions with a court employee over her hair.

**Lawyer 5:** [T]here was somebody who . . . wasn't a lawyer but worked for the court who would harass me about my hair all the time. . . . I remember one time I wore a longer wig and he's like a short bald man who came over to me and like, he would always do, in a fun, playful way, touched my hair and put it on his little bald head and was like, "Oh my gosh, where do you get all this hair." . . . I saw the same person another time and I had a curly wig on at that time and he was like, "Oh my gosh, girl, it looks like you stuck your finger in a light socket." My coworkers who were all white had heard it and were also taken aback. Then it turned into like, if you want us to do something, let us know. It's the burden of me telling them. It was just a lot of stress like that.

Beyond having aspects of their identity scrutinized or used as a basis for differential treatment, focus group respondents described the experience of being mistaken for someone in another occupation. One Black woman noted that if she were to post about an incident of misattribution on Facebook (in a city with a large number of Black women attorneys):

**Lawyer 10:** You immediately see a bunch of likes and people going, "Yes, that happened to me." It's a very common thing.

Several Black women described the following experiences of misattribution:

**Lawyer 7:** For me, I can't say it's been from a judge, but definitely we've all been considered a probation officer or a court reporter or someone else. Anytime you walk into a courtroom [when you] . . . have to go up to sign in or check out/off our case, a lot of times you'll get stopped and approached like, "Oh, I'm sorry, you have to take a seat way back there." It's like, "I am an attorney, so I need to sign in like everybody else." "Oh, I didn't know you was [sic] [an] attorney." "No, I just put this suit on to come to court because I thought I was going to go to jail."

**Lawyer 7:** That's happened from day one, and it happens still . . . to this day. I don't think that's something that's ever going to change. To be fair, it's not just from white people. It's from Black bailiffs and sheriffs, and it's across the board. I don't know if they just see a female and just assume that you're not a lawyer, but it happens everywhere.

**Lawyer 5:** When I sat down to dinner, I had said hi to this law clerk's judge because I had seen that judge the night before leaving the building. That law clerk said, "Are you an administrative assistant?"

**Lawyer 10:** When I'm in nonfederal courthouses, [there are] times when you go to, say a magistrate court or a district, a superior court, and they're not really using the jury box for these smaller hearings. All the attorneys will sit in the jury box and sometimes you're meeting with opposing counsel. We're talking before the judge gets into the room. I have [a] suit [and a] briefcase, [and I'm] having a conversation with a fellow attorney of opposing counsel about a case, and [I'm] approached by the bailiff, "Ma'am, you can't sit here." "Why can't I sit here?" "Well, this is where the attorneys sit." [A]nd to his credit, opposing counsel . . . said he was confused, like, "What? She's an attorney."

A Black woman serving as a federal district court clerk recounted that another attorney mistook her for a member of the defendant's family.

**Lawyer 5:** [P]robably within the first year that I was there, an attorney when I went to observe court had asked me if I was the family of the defendant he was representing because the defendant's Black. . . . "No, I work for the judge."

White women also had experiences of misattribution, particularly for administrative or support staff positions.

**Lawyer 1:** Oh yes. I'm always the secretary that is suddenly in the

courtroom, or a social worker, an assistant in the courthouse. I've had clients tell me that one day I will make a great attorney. . . . Going to meet with another attorney and being asked if you're the secretary — it being automatically assumed that you'll be the one to type the agreements.

**Lawyer 2:** Sometimes, just because of the nature of my job and working with a lot of women that I think they just assume I'm the [social] worker and not the attorney in this situation.

**Lawyer 12:** [I]t was my prior job where my boss was a male. I was assisting him with a case, and the client thought I was his secretary, which is interesting, and not surprising, I guess. . . . [One time] I think I had asked him for information that I needed for his application, and he [asked,] "Well when can I talk to the boss?" . . . "Why do you need to talk to him?" He [said], "Well, I have legal questions that I need to ask." . . . "Well, you can ask them to me." He [said], "You're the secretary." . . . "No."

Several focus group participants described incidents when their qualifications were specifically questioned, and they sometimes had to show their bar card to court security or other attorneys to prove they were an attorney.

**Lawyer 9:** I've had an experience trying to go through security, and they [say], "Where are you going? . . . This line's for attorneys only." Or I've had security say, "Oh, next time, you don't have to wait. Court reporters can come through." . . .

I've had someone ask for my bar card, literally ask me for my bar card, and luckily I had it. And from [then] on, I always carry it with me, but he would not allow me to go through the attorney line until I showed him my bar card.

**Lawyer 7:** "You're an attorney?" They're taken aback. It's like a glitch in the matrix. "You're an attorney?" Yes, I'm an attorney! See, blue card! And for the first few times that happened, I'd shown other attorneys my blue card, and then I got to feeling . . . like I'm not only being questioned by security, which yes, again, that's their job, but now other attorneys are asking me and I'm . . . having to show my papers when I'm in the courthouse, and I didn't like the way that made me feel.

**Lawyer 8:** Am I the only one that has had to [over the last] 17 years [explain] to clients occasionally that I am actually an attorney? . . . Recently there was a white male who was ironically referred to me by the [state] bar, who actually took it upon himself to go . . . on my personal Facebook and stuff because he wasn't sure that I was a real attorney. It took me by surprise. It was like, "The bar actually sent you to me. The people that give us our license and number sent you to me, and you still had to legitimize me." [I was thinking], "If I was a white male, you wouldn't have felt the need to take that extra step."

One Black woman who had served as a law clerk for a federal judge described her shock at having her qualifications implicitly questioned by another law clerk.

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*"I'm starting to see more people in elected positions, more judges [who] look like me specifically. But for a very long time it was a very white, very male-dominated area, and with the kinds of challenges I saw, even in law school, it just took the winds out of my sails."*

– Lawyer 10



**Lawyer 5:** My first co-clerk asked me what my LSAT score was, unprompted, out of nowhere. . . . In my mind, I'm trying to make the best of a situation and was trying to find some reason for her behavior beyond racism . . . "Well, she's just a little insecure because she didn't go to a T14 law school." . . . [That] she's [thinking], "Oh, well that's why you got into [a T14 law school]," or something like that. She was trying to figure out why I was in the room and why I was in the space, when it could have been just that this judge hired us both; we both equally can do the job.

Some respondents who identify as Black described situations when coworkers or court personnel referred to them by the name of another Black woman attorney. This differs from misattributions, in which individuals are presumed to hold occupations other than attorney — often aligned with gendered and racialized stereotypes. Here, these instances reflect the inability of people to distinguish among Black women.<sup>30</sup> As one Black women attorney summed it up, "We're all Tamika."

**Lawyer 3:** Some of my Black female friends and I would comment that we felt like you could work with an attorney on a case for an extended period of time. That case resolves. You see them in court. However, [a] long period of time after that, they don't know you. [W]e make this joke that we are all the same. I remember being in court [laughs] and as I was waiting for a case, just a random attorney walked up to me and was like, "Hi, good morning, Tamika." I'm like, "No, I'm not Tamika."

**Lawyer 8:** I have people in the same office with me that will call me a different attorney's name. I've been here three years. How are you confusing me with that person? You don't even look like some of the people whose name they call you. Like, "Okay, she [is] tall, I am only 5'2." We're not the same complexion. We don't have the same hairstyle. Other than we're both Black females, that's all we have in common."

**Lawyer 7:** That actually happened to me last week with a judge. Last week. The judge called another attorney [by my name]. . . . "Mrs. [name redacted], you're going to prepare this order?" I'm like, "I'm not her. You are my assigned judge. How are you calling me someone else?"

What impact did these experiences have on career ambition and job satisfaction? And how did these women deal with these experiences? The next sections highlight how the focus group participants responded.

### Career Ambition

We asked the participants about interest in career advancement. While none had ever run for elected office before, three individuals (two white women and one Black woman) indicated that they would most like to hold a statewide elected office. Another three respondents (all Black women) said they would most like to be a business executive. Two (one white woman, one Black woman) indicated they would like to be a state judge, and another two (one Asian American woman, one Black woman) said they would like to have their own law practice. Most of the women were lukewarm about the

prospect of becoming a judge, though several had considered the possibility.

**Lawyer 3:** At one point in time before I became a lawyer, when I was young, I thought that I would want to be a lawyer and then a judge, but I don't think that it's something that I would be interested in [now]. I like to keep my private life private, and I've seen that not be the case for other women judges, particularly one woman of color judge that I can think of.

**Lawyer 7:** If I had stayed in [Mid-Atlantic city], I [would have] considered trying to become a judge there because I practiced there for a while. I moved to [southeastern state] just three years ago. . . . I don't think I have the connections, and I'm not going to get out there and campaign and all that stuff here to become a judge.

One attorney explicitly linked her disinterest in becoming a judge to the heightened scrutiny she felt she would receive due to her identity as a Black woman.

**Lawyer 10:** I have thought many times about going into politics for a judgeship or an elected attorney position, but I live in the South, and recently that's become a little bit more attainable. Like very recently, I'd say the last five years, I'm starting to see more people in elected positions, more judges [who] look like me specifically. But for a very long time it was a very white, very male-dominated area, and with the kinds of challenges I saw, even in law school, it just took the winds out of my sails.

Feeling like you're constantly going to have to explain why you're in a room. And you're constantly going to be challenged on what you know, what you think, how you analyze the law, and how you apply the law. Having people question [whether you are] even supposed to be here. [Because], as a judge, you're talking about making decisions that impact people's lives. . . . I don't have [the] mental fortitude for it.

Lawyer 8 (a Black woman) noted that a judge who was retiring specifically asked her if she was going to run for his seat.

**Lawyer 8:** I've looked at the application. I gave it serious thought. But I haven't hit the point yet that I'm comfortable putting myself on [the] front street like that because I can't just fade into the background if I take the bench. Right now, I can practice on my terms. [As a judge], it's not that easy because you basically become a public figure. I don't know that I want to become a public figure. It is something I've considered. . . . That's why I became an attorney. I wanted to become a judge.

The same lawyer noted that as she had practiced longer and observed judges getting death threats for their decisions and having to engage in politics, the prospect had become less appealing.<sup>31</sup>

### Job Satisfaction

The types of experiences that negatively affected job satisfaction varied. All the white women attorneys described work-life balance challenges as a negative, with Lawyer 4 saying

that these were the main reasons that thoughts about leaving the legal profession were "always in the back of my mind." Lawyer 7 (a Black woman) noted that she generally works 12 hours a day, six days a week, and that this workload was the thing that she liked least about her job — though retirement was not far off.

**Lawyer 2:** [S]omething I don't like as much — and I'm not even in a public interest setting — but I still feel like the work demand is pretty high. I don't always feel like I can go home at 5 o'clock and shut everything off. . . .

I always wanted to . . . get into law to, like everyone else, help people and make a difference, but I think it's the workload and even some of the emotional investment feels like a lot sometimes. I've thought about some other people who don't work in the law profession and may have those higher hours, but [they] don't have that emotional drainage or baggage that maybe . . . would be a little more, I don't know, I guess "balanced" would be the word.

**Lawyer 4:** Definitely the workload, work-life balance, and high expectations that you're going to be available to the client all the time [are negatives].

For some of the women of color, microaggressions and tokenism seemed to undercut their satisfaction with their legal careers.

**Lawyer 8:** I don't know if it's just me, but listening to the other ladies' experiences is somewhat triggering because it unlocks the stuff that you've been exposed to, the different microaggressions ►



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that you push to the side because you can't actually pay attention to all this stuff unless you definitely would stop practicing. It released all of these different memories of things . . . that have happened over the years.

**Lawyer 5:** I guess constantly being one of the few or one of the only Black women in the room [has been the least enjoyable part]. . . . I guess I underestimated how often that would happen because it's 2022, and I have struggled with that more than I thought I would. It's not like it's the first time that's happened to me because I went to predominantly white institutions. But it's just different when you're in the law.

#### **Coping Strategies for Dealing With Microaggressions and Frustration**

All white focus group participants mentioned the importance of support from their coworkers in processing frustrating or upsetting incidents.

**Lawyer 1:** Talking [about] that with coworkers has been extremely helpful. [And] hearing from other people's opinions that are in the same courtroom, when a judge admonishes you and them saying, "Oh, that was totally sexist," is helpful. It's definitely a growing experience. Being at the firm where I'm at now, where we're all female attorneys and hearing that they have the same experiences with similar attorneys and when another attorney is rude or disrespectful is very helpful. [It] doesn't make it right, but it does help you [know] how to deal with it in the future.

**Lawyer 4:** I will say that even though my colleagues are old white men, they have stuck up for me when things like that happen. That does add to a sense of belonging like I'm part of the team just because they deal with snarky coworker[s]/clients, too. . . . Someone asked me to review a document, and it had been out floating around for a long time, and no one ever sent it to me. I sent my review back, and then one of the COOs of the organization didn't reply back to me. They replied back to my boss and didn't even copy me on it. My boss had to forward it and [communicated], "Remember to include [Lawyer 4], because she's the one doing this."

**Lawyer 2:** For the most part, I'm able to just let things roll off my back. Like I said, I'm lucky [that] my two other coworkers are women and they're supportive, and a lot of times it's just telling them like, "Hey, listen to this comment I got today." It's a little bit of venting and camaraderie. . . . [My supervisor] gave me examples of times similar things have happened.

In contrast, Black women attorneys did not seem to rely as much on coworkers, but rather on their law school friends or other Black women attorneys.

**Lawyer 9:** I have some amazing friends. FaceTime, girl. My friends are amazing. They're all Black female attorneys. That's who I go to first and foremost.

**Lawyer 3:** Like some of the other ladies, I definitely have some friends. I've got one really, a really

good friend in particular, and she hears all of it. . . . She's a Black woman attorney, so she gets it. I definitely use her as a sounding board.

**Lawyer 10:** I leaned heavily on the Black Law Students Association; we were each other's family during law school. That's a huge piece of it, creating that sense of community, we are all we got. That was a very real perspective that we carried.

Three of the Black women attorneys noted that they had come to the law after starting in other careers (e.g., the military) or after obtaining other graduate degrees (such as MBAs). Two of these women also referenced other work or the potential to move into other nonlegal jobs as a way of dealing with the stress from practicing law.

**Lawyer 8:** When I'm not being a full-time attorney, I'm a part-time attorney and a [full-] time educator. When I get overwhelmed with either just the practice part or [because] this is my only source of income, and I'm not married and I still need to pay my bills part, I go and I teach. I have a professional teacher's certificate. I go to a classroom, and I practice part time.

**Lawyer 7:** I've thought about leaving the practice of law. I love to practice, especially when I was doing criminal defense, but I haven't left. [I'd have] wanted to be a personal trainer [. . . if] I had gotten certified to become a teacher. You have two or three years where you could go and get certified, and I didn't get certified in that time period. Now I'll never be a teacher because my temporary license,

or whatever they call it, is now expired. I'll be practicing law until I retire, but hopefully, that is not too much longer.

## CONCLUSIONS

Although this research is exploratory and the sample size quite small, the focus group responses contribute richly to existing research and highlight several important themes for future studies. First, we see both the harmful impacts that women lawyers report when confronted with frequent reminders of nonbelonging and the strategies they adopt to persist. Focus group responses align with existing scholarship showing that women lawyers frequently experience misidentification and other microaggressions. However, important differences emerge between women of color and white women lawyers. For example, although women of all races report frequent misidentification as nonlawyers, women of color additionally report being mistaken for one another. They also appear to experience a broader range of microaggressions, especially related to their hair and other aspects of appearance.

Second, regarding career ambition, many of the women expressed uncertainty about pursuing political or judicial office. Several Black women noted that they had once considered becoming a judge but now had concerns about safety and loss of privacy. Some participants were open to the possibility of running for statewide elected office or becoming a business executive, but none were actively pursuing these or other options.

Third, while most studies focus on the large and easily identifiable ways women experience bias in the legal profession — such as harassment and pay discrimination — our research sug-

gests that women lawyers routinely manage subtler messages of identity-based exclusion. These experiences may impact both their satisfaction with current jobs and their overall view of the legal profession. Despite these experiences, most focus group participants reported relatively high general satisfaction with the profession, though this was conditioned by age and experience. Lawyers with more years of experience seemed more likely to have considered leaving the profession or to have worked in other fields to “take a break” from practicing law. On the other hand, younger lawyers seemed less satisfied with their current employment circumstances.

Finally, all attorneys in the focus groups stated that their primary source of support came from other lawyers. This finding suggests that work environments can provide women lawyers with support structures that can ameliorate the harms of microaggressions. However, here, too, differences emerged between white women and women of color. While white women tended to identify their coworkers as their main sources of support, women of color report a greater likelihood of relying on other social networks — largely composed of other women of color — outside their workplaces. This pattern, coupled with widely reported experiences of tokenism among women of color, suggests that many legal settings remain under-inclusive and less supportive environments for women of color, forcing them to seek support in other venues.

Taken together, these attorneys' comments point to a greater need for further research on how women lawyers experience and cope with microaggressions related to gender, race, age, and other identities. A better ►

understanding of the psychological impacts of these experiences may shed light on how routine experiences of bias and exclusion affect attorneys' specific and general satisfaction with the legal profession — including their desires to advance or even remain in the profession, as well as how desirable or feasible they view the prospect of public or judicial office.



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- <sup>1</sup> Quote from Black woman focus group participant from this study (October 2022). The original study data referenced throughout is on file with the authors.
- <sup>2</sup> *Id.*
- <sup>3</sup> See, e.g., David I. Miller et al., *The Development of Children's Gender-Science Stereotypes: A Meta-Analysis of 5 Decades of U.S. Draw-A-Scientist Studies*, 89 *CHILD DEV.* 1943, 1943 (2018) (discussing "gender science stereotypes linking science with men" among children); Asia A. Eaton et al., *How Gender and Race Stereotypes Impact the Advancement of Scholars in STEM: Professors' Biased Evaluations of Physics and Biology Post-Doctoral Candidates*, 82 *SEX ROLES* 127, 127 (2020) (examining "how intersecting stereotypes about gender and race influence faculty perceptions of post-doctoral candidates in STEM fields").
- <sup>4</sup> See, e.g., Angela L. Bos et al., *This One's for the Boys: How Gendered Political Socialization Limits Girls' Political Ambition and Interest*, 116 *AM. POL. SCI. REV.* 484, 484 (2022) (discussing gendered political socialization among children); Nadia E. Brown, *Political Participation of Women of Color: An Intersectional Analysis*, 35 *J. OF WOMEN, POL. & POL'Y* 315 (2014) (discussing "how both race/ethnicity and gender" influence participation in politics).
- <sup>5</sup> See Barbara Kellerman & Deborah L. Rhode, *Women at the Top: The Pipeline as Pipe Dream*, 21 *ABOUT CAMPUS* 11, 11 (2017) (finding that greater numbers of women in the pipeline do not lead to major increases in women in leadership positions); Robert L. Nelson et al., *Perceiving Discrimination: Race, Gender, and Sexual Orientation in the Legal Workplace*, 44 *L. & SOC. INQUIRY* 1051, 1051 (2019) (documenting minoritized lawyers' greater experiences with workplace discrimination).
- <sup>6</sup> See generally JENNIFER L. PIERCE, *GENDER TRIALS: EMOTIONAL LIVES IN CONTEMPORARY LAW FIRMS* (1995); Deborah L. Rhode, *Gender and the Profession: The No-Problem Problem*, 30 *HOFSTRA L. REV.* 1001 (2002) (arguing that the gendered nature of large corporate firms disadvantages women lawyers and paralegals).
- <sup>7</sup> See, e.g., Cynthia Fuchs Epstein et al., *Glass Ceilings and Open Doors: Women's Advancement in the Legal Profession*, 64 *FORDHAM L. REV.* 291, 309 (1995) (finding evidence of multiple glass ceilings for women working in large corporate law firms); Mary C. Noonan & Mary E. Corcoran, *The Mommy Track and Partnership: Temporary Delay or Dead End?*, 596 *THE ANNALS OF THE AM. ACAD. OF POL. & SOC. SCI.* 130, 141–44 (2004) (finding that men are more likely to become partners than women and earn more when they do and that taking time away from work for childcare decreases salaries and the probability of becoming a partner); Joyce S. Sterling & Nancy Reichman, *Navigating the Gap: Reflections on 20 Years Researching Gender Disparities in the Legal Profession*, 8 *FIU L. REV.* 515, 515–18 (2013) (summarizing scholarship documenting women lawyers' underrepresentation, disparate treatment, and unequal advancement).
- <sup>8</sup> See, e.g., Patricia Becker, Jillian Vlacanich & Margaret E. Leigey, "Misogyny is Rampant": *Harassment, Bullying, and Their Impact on Professional Satisfaction Among Female Legal Practitioners in California*, 34 *WOMEN & CRIM. JUST.* 257, 257 (2024) (examining "gender differences in harassment and bullying and their effect on professional satisfaction in a sample of legal practitioners").
- <sup>9</sup> See generally Janet E. Gans Epner, *Visible Invisibility: Women of Color in Law Firms*, ABA COMM'N ON WOMEN IN THE PROFESSION (2006), [https://judicialstudies.duke.edu/sites/default/files/centers/judicialstudies/panel1-visible\\_invisibility\\_women\\_of\\_color\\_in\\_law\\_firms.pdf](https://judicialstudies.duke.edu/sites/default/files/centers/judicialstudies/panel1-visible_invisibility_women_of_color_in_law_firms.pdf) (discussing the experiences of women of color in law firms); Destiny Peery, Paulette Brown & Eileen Letts, *Left Out and Left Behind: The Hurdles, Hassles, and Heartaches of Achieving Long-Term Legal Careers for Women of Color*, ABA COMM'N ON WOMEN IN THE PROFESSION (2020), <https://www.americanbar.org/content/dam/aba/administrative/women/leftoutleftbehind-int-f-web-061020-003.pdf> (discussing the challenges experienced by women of color).
- <sup>10</sup> Todd A. Collins, Tao L. Dumas & Laura P. Moyer, *Intersecting Disadvantages: Race, Gender, and Age Discrimination Among Attorneys*, 98 *SOC. SCI. Q.* 1642, 1642 (2017).
- <sup>11</sup> Todd A. Collins, Tao L. Dumas & Laura P. Moyer, *Tipping the Scales of Justice: Perceptions of Unfair Treatment in the Courtroom*, 39 *JUST. SYS. J.* 303, 304 (2018).
- <sup>12</sup> See, e.g., Jill L. Cruz & Melinda S. Molina, *Few and Far Between: The Reality of Latina Lawyers*, *HISP. NAT'L BAR ASS'N* 9 (2009), <https://hnba.com/wp-content/uploads/2015/06/few-far-between.pdf> ("For example, [Latinas] are often mistaken for someone other than the attorney (e.g., court reporter, interpreter, or paralegal) both in the workplace and in court."); Epner, *supra* note 9, at 18 ("Many women of color felt invisible, mistaken for clerical staff, court reporters, or paralegals. . . ."); Roberta D. Liebenberg & Stephanie A. Scharf, *Walking Out the Door: The Facts, Figures, and Future of Experienced Women Lawyers in Private Practice*, ABA (2019), [https://www.americanbar.org/content/dam/aba/administrative/women/walkoutdoor\\_online\\_042320.pdf](https://www.americanbar.org/content/dam/aba/administrative/women/walkoutdoor_online_042320.pdf) ("[S]enior women are significantly more likely than men to report that, on account of their gender, they have [been mistaken for a lower level employee]" (quotation is partially derived from chart)); Joan C. Williams et al., *You Can't Change What You Can't See: Interrupting Racial & Gender Bias in the Legal Profession*, ABA COMM'N ON WOMEN IN THE PRO. 18 (2018) ("Because of the automatic association of lawyers with majority men, lawyers from other groups are much more likely to be mistaken for, or viewed as, less than a lawyer.").
- <sup>13</sup> Williams et al., *supra* note 12, at 18–19.
- <sup>14</sup> Liebenberg & Scharf, *supra* note 12, at 7.
- <sup>15</sup> Herbert M. Kritzer, *Contingency Fee Lawyers as Gatekeepers in the Civil Justice System*, 81 *JUDICATURE* 22, 22 (1997).
- <sup>16</sup> See generally CHARLES R. EPP, *THE RIGHTS REVOLUTION: LAWYERS, ACTIVISTS, AND SUPREME COURTS IN COMPARATIVE PERSPECTIVE* 18 (1998) (discussing rights litigation).
- <sup>17</sup> See, e.g., John Monahan & Jeffrey Swanson, *Lawyers at the Peak of Their Careers: A 30-Year Longitudinal Study of Job and Life Satisfaction*, 16 *J. EMPIRICAL LEGAL STUD.* 4, 4 (2019) (finding "both career satisfaction and life satisfaction . . . to be high" among the lawyers studied).
- <sup>18</sup> See Ronit Dinovitzer & Bryant G. Garth, *Lawyer Satisfaction in the Process of Structuring Legal Careers*, 41 *LAW & SOC'Y REV.* 1, 2 (2007) ("[E]mpirical research often finds that lawyers are relatively



- satisfied across a range of measures and that this finding is fairly stable across gender and race.” (citations omitted)); Jeffrey Evans Stake, Kenneth G. Dau-Schmidt & Kaushik Mukhopadhyaya, *Income and Career Satisfaction in the Legal Profession: Survey Data from Indiana Law School Graduates*, 4 J. EMPIR. LEG. 939, 981 (2007) (“With respect to career satisfaction, it seems that women are particularly sensitive to hours, probably due to greater family responsibilities. . . . [F]or the most part, black and Hispanic lawyers enjoy the same career satisfaction as majority lawyers.”).
- <sup>19</sup> See, e.g., Joni Hersch & Erin E. Meyers, *Why Are Seemingly Satisfied Female Lawyers Running for the Exits? Resolving the Paradox Using National Data*, 102 MARQ. L. REV. 915, 915 (2019) (“[A]ny apparent similarity of job satisfaction between genders likely arises from dissatisfied female JDs sorting out of the legal profession at higher rates than their male counterparts, leaving behind the most satisfied women.”); Joni Hersch, *Gender, Race, and Job Satisfaction of Law Graduates: Intersectional Evidence from the National Survey of College Graduates*, 20 J. OF EMPIRICAL LEGAL STUD. 339, 343 (2023) (discussing limitations in “demographic composition and sample sizes” of data sets comparing lawyers’ satisfaction).
- <sup>20</sup> John Hagan & Fiona Kay, *Even Lawyers Get the Blues: Gender, Depression, and Job Satisfaction in Legal Practice*, 41 LAW & SOC’Y REV. 51, 69 (2007).
- <sup>21</sup> See, e.g., Destiny Peery et al., *supra* note 9, at 8–9 (quoting women of color discussing the need to constantly prove themselves); Laura P. Moyer et al., *All Eyes Are on You: Gender, Race, and Opinion Writing on the U.S. Courts of Appeals*, 55 LAW & SOC’Y REV. 452, 452 (2021) (“[W]omen and judges of color, while well-credentialed, feel pressure to work harder than their white male peers to demonstrate their competence.”).
- <sup>22</sup> See generally Derald Wing Sue et al., *Racial Microaggressions in Everyday Life: Implications for Clinical Practice*, 62 AM. PSYCH. 271, 273–74 (2007) (discussing racial microaggressions).
- <sup>23</sup> See, e.g., Roxanne A. Donovan et al., *Impact of Racial Macro- and Microaggressions in Black Women’s Lives: A Preliminary Analysis*, 39 J. BLACK PSYCH. 185, 185 (2012) (discussing the relationship between perceived racial macroaggressions and microaggressions in Black women’s lives and anxiety and depression symptoms); TSEDALE M. MELAKU, *YOU DON’T LOOK LIKE A LAWYER: BLACK WOMEN AND SYSTEMIC GENDERED RACISM (PERSPECTIVES ON A MULTIRACIAL AMERICA)* 15–17 (2019) (discussing the effects of gendered racism and “the invisible labor clause” in corporate law firms).
- <sup>24</sup> Mark Orbe, *The Normative Nature of Racial Microaggressions in the Legal Field: Exploring the Communicative Experiences of U.S. Attorneys of Colour*, 50 J. INTERCULTURAL COMMUN. RSCH. 207, 213 (2021).
- <sup>25</sup> See Destiny Peery et al., *supra* note 9, at 24–25 (discussing the importance of intersectionality).
- <sup>26</sup> See *id.* at 8–9 (quoting attorneys’ experiences).
- <sup>27</sup> See generally JENNIFER CYR, *INTRODUCTION TO FOCUS GROUPS FOR THE SOCIAL SCIENCE RESEARCHER* (2019) (discussing guidance for undertaking focus groups).
- <sup>28</sup> Participants were recruited through a snowball sampling method initiated through the researchers’ professional contacts. Focus group participants were compensated for their time. All protocols were approved by the authors’ respective Institutional Review Boards.
- <sup>29</sup> See CYR, *supra* note 27, at 19–20 (finding focus groups useful for measuring race and gender).
- <sup>30</sup> Interviews with Black women judges uncover similar experiences. See Taneisha N. Means, *Her Honor: Black Women Judges’ Experiences with Disrespect and Recusal Requests in the American Judiciary*, 43 J. OF WOMEN, POL. & POL’Y 310, 320 (2022) (“[O]ne judge reported recurring mistaken identity because she had been repeatedly called a different Black woman judge’s name. . . .”).
- <sup>31</sup> The American Bar Association has noted the rise of violent threats received by judges. See generally ABA, *As Threats Intensify, Judges Urge Colleagues to Speak Out* (Aug. 2019), <https://www.americanbar.org/news/abanews/abanews-archives/2019/08/as-threats-intensify-judges-urge/> (discussing increased online attacks on judges).

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